

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

THE CITY OF NEW YORK,

Plaintiff,

- against -

ENVIROMD GROUP LLC, *et al*

Defendants.

1:24-cv-5161-GHW-JW

## DECLARATION OF RYAN D. CALLINAN

I, Ryan D. Callinan, hereby declare as follows:

1. I am an associate with the law firm Thompson Hine LLP, attorneys for Defendants Vape More Inc. and Vape Plus Distribution Corp. in this action.

2. I am over 18 years of age and would be competent to testify to the information set forth herein if called as a witness in court.

3. I am a member in good standing of the Bar of the State of New York and of this Court.

4. I make this declaration in support of the Defendants' Motion to Dismiss the City of New York's Second Amended Complaint.

5. Annexed hereto as Exhibit A is a true and correct copy of the New York State Department of Health Guidance for Vapor Product Manufacturers, Wholesalers, Distributors, and Retailers Regarding New Shipping Restrictions.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: September 27, 2024

Respectfully Submitted,

THOMPSON HINE LLP

By: /s/ Ryan D. Callinan

Ryan D. Callinan

Krupa A. Patel

Eric N. Heyer (admitted *pro hac vice*)

Joseph A. Smith (admitted *pro hac vice*)

THOMPSON HINE LLP

1919 M Street, N.W., Suite 700

Washington, DC 20036

Phone: 202.331.8800

Ryan.Callinan@ThompsonHine.com

Krupa.Patel@ThompsonHine.com

Eric.Heyer@ThompsonHine.com

Joe.Smith@ThompsonHine.com.

# **Exhibit A**



**Department  
of Health**

**ANDREW M. CUOMO**  
Governor

**HOWARD A. ZUCKER, M.D., J.D.**  
Commissioner

**SALLY DRESLIN, M.S., R.N.**  
Executive Deputy Commissioner

## **Guidance for Vapor Product Manufacturers, Wholesalers, Distributors, and Retailers Regarding New Shipping Restrictions**

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*New restrictions on shipping of vapor products go into effect on July 1, 2020. This document is intended to provide a guide to compliance with the new law.*

### **What has changed?**

Public Health Law (PHL) § 1399-II currently prohibits the shipment and transport of cigarettes, except to certain specific individuals, including licensed or registered dealers, agents and wholesalers.

Effective July 1, 2020, the prohibition on shipping imposed by PHL § 1399-II will be extended to vapor products intended or reasonably expected to be used with or for the consumption of nicotine.

### **Why was the law changed?**

The intent of these amendments is to prevent consumers, and particularly individuals under the age of 21, circumventing restrictions on vapor product sales by purchasing products online and via telephone.

### **What shipments are prohibited by these changes?**

Beginning July 1, 2020, the following shipments of vapor products intended or reasonably expected to be used with or for the consumption of nicotine will be **prohibited**:

- All shipments to consumers at an address located within New York.
- All shipments to individuals or entities intending to provide such vapor products to a consumer within New York, at retail or otherwise, unless such individual or entity is registered as a vapor products dealer pursuant to Tax Law Article 28-C.

The following shipments of vapor products intended or reasonably expected to be used with or for the consumption of nicotine will continue to be **permitted**:

- All shipments between manufacturers, wholesalers, and distributors within New York. Such entities are not required to register as vapor products dealers to send or receive shipments of vapor products, unless otherwise required to register pursuant Tax Law Article 28-C.
- All shipments from a manufacturer, wholesaler, distributor, or retailer, to individuals or entities located in any state other than New York, provided that such shipments are in accordance with federal law and the recipient state's laws.

**More information:**

NYS Department of Health Bureau of Tobacco Control: **[tcp@health.ny.gov](mailto:tcp@health.ny.gov)**